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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	
)	Arizona Supreme Court No. R-18-____
)	
ARIZONA RULE OF)	
EVIDENCE 807)	
)	PETITION TO AMEND ARIZONA
)	RULE OF EVIDENCE 807
)	
_____)	

PETITION TO AMEND THE ARIZONA RULES OF EVIDENCE

Pursuant to Rule 28, Rules of the Supreme Court, the Advisory Committee on Rules of Evidence, by and through its Co-Chairs, Mark W. Armstrong and Samuel A. Thumma, petition the Court to amend the comment to Arizona Rule of Evidence 807 (Rule 807), as reflected in the attachment hereto, effective January 1, 2020.

I. INTRODUCTION AND BACKGROUND

Rule 807 was amended by this Court in R-18-0003, effective January 1, 2019, to conform to changes in Federal Rule of Evidence 807 (FRE 807) that were anticipated to become effective December 1, 2018. Thus, the comment to the amended rule stated that “Rule 807 was amended to conform to the changes made to Federal Rule of Evidence 807 that took effect on December 1, 2018.”

Historically, federal evidence rule changes became effective December 1 of the year after the rule change was formally proposed and circulated for public comment. In this case, the changes to FRE 807 were formally proposed in 2017 and were anticipated to take effect December 1, 2018. Recently, however, the federal courts added a year to their process so that the changes to FRE 807 did *not* take effect on December 1, 2018, but instead are projected to take effect December 1, 2019. See <http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>. Thus, a conforming change to the comment to Rule 807 is necessary.

At its regular meeting on December 14, 2018, the Advisory Committee unanimously recommended that a Petition be filed seeking to amend the comment to Rule 807 as reflected in the attachment hereto, effective January 1, 2020.

II. SUMMARY OF THE PROPOSED AMENDMENT TO COMMENT TO ARIZONA RULE OF EVIDENCE 807

The proposed amendment is a technical amendment to conform the comment to Rule 807 to the projected effective date of the amendment to FRE 807.

CONCLUSION

Petitioners respectfully request that the Court consider this Petition at its earliest convenience. Petitioners additionally request that the Petition be circulated for public comment until May 20, 2019, and that the Court adopt the proposed change as requested, or as modified in light of comments received from the public, with an effective date of January 1, 2020.

DATED this 18th day of December 2018.

Mark W. Armstrong
Co-Chair, Advisory Committee on Rules of Evidence

Samuel A. Thumma
Co-Chair, Advisory Committee on Rules of Evidence

ATTACHMENT¹

ARIZONA RULES OF EVIDENCE

Rule 807. Residual Exception

[No change in text of rule]

Comment to 2019 Amendment

Rule 807 was amended effective January 1, 2019, to conform to the changes made to Federal Rule of Evidence 807 that took effect on December 1, 2018~~9~~.

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by strikeouts.